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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHANDAN CHOPRA, PRASHANT ANANT PARANJAPE, and VASU VALLABHANENI

Appeal 2016-001861
Application 12/762,141
Technology Center 2400

Before ALLEN R. MacDONALD, JOHN F. HORVATH, and DAVID J. CUTITTA II, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Introduction

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 16–35. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim

Exemplary claim 16 under appeal read as follows (emphasis and bracketing added):

> 16. A computer usable program product comprising a computer usable storage device including computer usable code for addressing a workload partition (WPAR), the computer usable code comprising:
>
> [(A)] computer usable code for receiving, from a second data processing system, a packet of data at a software stack executing in a first data processing system, the packet being directed to the WPAR executing in the first data processing system, the packet including a combined address, wherein ***the combined address combines a first part to identify the first data processing system to the second data processing system over a data network and a second part to identify the WPAR executing in the first data processing system***;
>
> [(B)] computer usable code for determining whether the combined address includes an identifier that is reserved;
>
> [(C)] computer usable code for using, responsive to the identifier not being reserved, the identifier to identify the WPAR in the first data processing system; and
>
> [(D)] computer usable code for sending the packet to the WPAR.

Examiner's Rejection

The Examiner rejected claims 16–35 under 35 U.S.C. § 102(b) as being anticipated by Craft et al. (US 2007/0233897 A1).

Appellants' Contention [1]

Appellants contend that the Examiner erred in rejecting claim 16 because:

> *Craft* teaches no address that includes a first part and a second part, where the first part can be used to reach ***a data processing system over a data network*** and the second part can be used to identify a WPAR in that data processing system. Amended claim 16 calls for receiving the packet ***from a second data processing system*** into the WPAR's host data processing system.

App Br. 12, Appellants' emphasis omitted, panel emphasis added.

> Problems exist where the examiner argues "218 shows WPAR1 having a network address of 1.1.1.11, WPAR2 has a network address of 1.1.1.12, etc. Craft clearly uses the network aliasing feature disclosed by Appellant to have ***each WPAR appear as a distinct data processing system*** [***Thus, by Craft disclosing each WPAR having a distinct network IP address, Craft's WPAR meets Appellant's definition of a data processing system.***]" (Examiner's Answer, pp. 8-9), and where the examiner argues "Craft clearly discloses exchanging data from an application in one WPAR to another application and exchanging such data with a packet using an IP destination address (at least paragraph 18)" (Examiner's Answer, p. 9). ***First*** problem is that the ***WPARs are located in the same data processing system***, and therefore their inter-communications are not really **identify[ing] the first data processing system to the second data processing system over a data network**. ***Second***, Craft does not teach or suggest that WPAR-to-WPAR communication use the WPAR identifiers; therefore, such WPAR-to-WPAR communications do not occur using the combined address as in claim 16. And ***lastly***, the WPARs are not themselves qualified as the first data

[1] The contention of error we discuss is dispositive. Appellants' other contentions of error are not discussed further herein.

> processing system and the second data processing system for the reasons described above.

Reply Br. 3, emphasis added.

Issue on Appeal

Did the Examiner err in rejecting claims 16–35 as being anticipated because Craft fails to disclose the argued limitations?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments (Appeal Brief) that the Examiner has erred.

As to Appellants' above contention, we agree. Claim 16 recites "a first part to identify the first data processing system to the second data processing system over a data network." We agree with Appellants "*Craft* teaches no address that includes a first part and a second part, where the first part can be used to reach ***a [second] data processing system over a data network*** and the second part can be used to identify a WPAR in that data processing system." App. Br. 12, emphasis added.

The Examiner responds to Appellants' Appeal Brief arguments by providing additional analysis that finds "by Craft disclosing each WPAR having a distinct network IP address, ***Craft's WPAR meets Appellant's definition of a data processing system***." Ans. 9, emphasis added. We disagree with Examiner's finding that it is reasonable to treat the "WPAR" and "data processing system" limitations of claim 16, as indistinct limitations, i.e., as being interchangeable. As support for this finding, the Examiner points to selected paragraphs of Appellants Specification as being

definitional. Ans. 8. However, the Examiner's selection of definitional paragraphs omits those paragraphs which contradict the Examiner's ultimate finding that the WPAR and data processing system are indistinct. For example, the Specification discloses:

> Workload partition is a technology that allows separating users and applications by employing software techniques instead of forming separate hardware partitions. In other words, a data processing system can be so configured as to allow one or more virtual partitions to operate within the data processing system's operating system. Such a virtual partition is called a workload partition, or WPAR.

¶ 2. We conclude that the claim limitations "data processing system" and "workload partition (WPAR)" are not interchangeable for purposes of the rejection. Rather, an artisan reading Appellants' disclosure as a whole would recognize the terms are distinct with the term "data processing system" being directed to hardware, and the term "workload partition" being directed to software.

CONCLUSIONS

(1) Appellants have established that the Examiner erred in rejecting claims 16–35 as being anticipated under 35 U.S.C. § 102(b).

(2) On this record, claims 16–35 have not been shown to be unpatentable.

DECISION

The Examiner's rejection of claims 16–35 is reversed.

REVERSED